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FISCAL IMPACT STATEMENT

LS 6238
BILL NUMBER: HB 1244

NOTE PREPARED: Apr 20, 2011
BILL AMENDED: Apr 20, 2011

SUBJECT: Local Government.

FIRST AUTHOR: Rep. Friend
FIRST SPONSOR: Sen. Head

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: Local

Summary of Legislation: (Amended) *Contract Property Sales:* The bill specifies the terms that a contract for the purchase of real property must include to qualify the buyer for certain property tax deductions. It defines a contract containing the required terms as a qualified installment contract under the property tax credit and deduction laws.

The bill provides that a person who: (1) owns property subject to taxation; (2) intentionally misrepresents a residential lease as a qualified installment contract; and (3) through the person's misrepresentation causes another individual to improperly claim a deduction that is made available to a buyer under a qualified installment contract; is liable for any additional taxes that would have been due on the property if the person had leased the property to the purported contract buyer, plus a civil penalty equal to 10% of the additional taxes due.

Exemption For Property Leased to BMV: The bill provides a property tax exemption for certain property leased to the Bureau of Motor Vehicles or Bureau of Motor Vehicles Commission for the 2010 through 2016 assessment dates. The bill provides that an exemption application does not have to be filed annually to continue the exemption through the 2016 assessment date.

Fraternity / Sorority Property Tax Exemption: This bill provides that the property tax exemption for fraternity or sorority property applies to property used for administrative purposes, including property owned by a national or international headquarters, fraternity or sorority foundations, and housing corporations. The bill specifies that the exemption applies only if the property is owned by a fraternity or sorority (or a national or international headquarters, foundation, or housing corporation related to a fraternity or sorority) that is exempt from federal income taxation under Section 501(c)(3) or Section 501(c)(7) of the Internal Revenue

Code. The bill deletes from current law the requirement that property may qualify for the exemption only if the property is used exclusively by the fraternity or sorority to carry out its purposes.

PSAPs- The bill caps the property tax rate and property tax levy that an excluded city may impose to fund the operations of a public safety answering point (PSAP) that is exempt from the maximum number of PSAPs that may be operated in a county.

Auditor's Notice- The bill provides that a county auditor's notice of a tax sale is not to state that the person redeeming real property after the sale is required to pay the amount by which the sales price exceeded the minimum bid.

Bidder Written Statement- The bill revises the language of the written statement that a bidder on property at a tax sale must sign (which concerns the bidder's bid being applied to delinquent taxes owed by the bidder) so as to make that statement consistent with the redemption requirements of the law.

Elimination of Inapplicable Provision- The bill eliminates a provision that applied only to tax sale property that was offered in 2006 and found to be brownfield property.

Certificate of Sale- The bill provides that a person redeeming tax sale property where a certificate of sale has been sold must pay 110% of the amount of the minimum bid (rather than the amount of the minimum bid, under current law) for which the property was last offered for sale. The bill adds a provision requiring a person redeeming tax sale property where a certificate of sale has been sold to also pay 10% per annum on the amount by which the purchase price of the property exceeded the minimum bid.

County Treasurer- The bill provides that when a person who purchases real property at a tax sale fails to pay the bid: (1) the county treasurer or the county prosecutor (rather than only the county prosecutor, under current law) must initiate an action to recover the civil penalty; (2) the suit must be initiated in the name of the county and not the treasurer of state; and (3) the person may be found liable for treble damages, costs, and reasonable attorney's fees.

Charges 10% per Annum- The bill provides that an owner, to redeem tax sale property, must pay 10% per annum on the amount by which the purchase price of the property exceeded the minimum bid but is not required to pay the amount by which the purchase price of the property exceeded the minimum bid.

Payment Arrangements- The bill applies statewide the authority that currently applies only in Lake County allowing the county auditor to remove real property from a tax sale if the county treasurer and the taxpayer agree to a mutually satisfactory arrangement for the payment of the delinquent taxes.

Failure to Pay- The bill establishes a period during which a taxpayer who fails to make a payment under the delinquent property tax payment arrangement may not enter into another arrangement.

Extension of Redemption Period- The bill allows the county treasurer to extend the tax sale redemption period applicable to a homestead if the county treasurer and the taxpayer agree to an arrangement for payment of the amount required for redemption before the expiration of the extended redemption period. The bill provides for cancellation of the agreement and the extension if the taxpayer fails to meet the terms of the agreement. The bill provides that the total amount required for redemption includes all taxes, special assessments, penalties, and fees on property that accrued after the tax sale.

Redevelopment Commissions: This bill provides that a redevelopment commission may not enter into any obligation payable from public funds without first obtaining the approval, by ordinance or resolution, of the legislative body of the unit. The bill provides an exception if the obligation is for the acquisition of real property and the agreement to acquire the real property requires the redevelopment commission to either: (1) make payments for the real property for a term of less than three years; or (2) purchase the real property for a cost of less than $5,000,000. The bill also specifies that the approving ordinance or resolution of a legislative body must include the following: (1) The maximum amount of the obligation or the maximum amount of the lease rental for the lease. (2) The maximum interest rate, any provisions for redemption prior to maturity, and any provisions for the payment of capitalized interest associated with the obligation or lease. (3) The maximum term of the obligation or lease.

This bill provides that any agreement by a redevelopment commission to: (1) make payments for the property to be purchased over a term exceeding three years; or (2) pay a purchase price for the property that exceeds $5,000,000; is subject to the approval of the legislative body of the unit.

This bill provides that a redevelopment commission and a department of redevelopment are subject to the oversight of the legislative body of the unit, including review by the legislative body of annual budgets. The bill specifies that a redevelopment commission and a department of redevelopment are subject to the same laws, rules, and ordinances of a general nature that apply to all other commissions or departments of the unit.

This bill requires a redevelopment commission to provide to the legislative body of the unit at a public meeting all the information supporting the action the redevelopment commission proposes to take regarding the sale, transfer, or other disposition of property.

The bill requires a redevelopment commission to obtain the approval of the legislative body of the unit if the amount of excess assessed value determined by the commission is expected to generate more than 200% of the amount of allocated tax proceeds necessary to carry out the redevelopment or economic development plan. It provides that the legislative body of the unit may modify the commission's determination with respect to the amount of excess assessed value that exceeds 200% of the amount of allocated tax proceeds necessary to carry out the redevelopment or economic development plan.

The bill requires the treasurer of a redevelopment commission outside Indianapolis and the secretary-treasurer of a redevelopment authority outside Indianapolis to report quarterly to the fiscal officer of the unit that established the commission or authority. The bill provides that the Indianapolis controller is the fiscal officer of the redevelopment commission and redevelopment authority in Indianapolis and it authorizes the Indianapolis controller to obtain financial services on a contractual basis.

County Council Approval of Applications- The bill specifies that a county executive may not submit an application for certain grants unless the application is first approved by resolution of the county council. The bill provides that this requirement does not apply to Marion County.

Property Tax Exemption - Cooperative House: This bill provides for the retroactive application of a property tax exemption to a taxpayer that owns real and personal property used as part of or in connection with a men's cooperative house.

Property Tax Exemption - Medical Society: The bill provides for a two year property tax exemption for the property of the Marion County Medical Society (which provides services to its members as the Indianapolis Medical Society) and similarly situated medical societies.

Property Tax Exemption - Community Services: This bill provides a property tax exemption for property taxes due in 2009, 2010, and 2011 for an organization in Marion County that is dedicated to providing services to the community and that failed to timely file an application for those years, if the organization was entitled to an exemption in 2007 for the same property.

Property Tax Exemption - Center for the Arts: The bill provides a property tax exemption for 2010 and 2011for property owned by a nonprofit corporation and used as a center for the arts and for which an exemption was granted before 2010.

Study Issues: The bill also requires the Commission on State Tax and Financing Policy to study issues concerning standards for determining when a cooperative housing corporation is eligible for a property tax standard deduction or a property tax circuit breaker credit.

Effective Date: January 1, 2008 (retroactive); January 1, 2010 (retroactive); March 1, 2011 (retroactive); Upon passage; July 1, 2011.

Explanation of State Expenditures: *Contract Property Sales:* The Department of Local Government Finance (DLGF) would receive 1% of the total civil penalties collected under this bill. The revenue would be used for maintaining the homestead property database.

Explanation of State Revenues:

Explanation of Local Expenditures: *Payment Arrangements*- There could be minimal expenditure savings in counties that would begin delinquency payment arrangements. The savings may include reduced printing, postage, and publishing costs related to tax sale notices.

Failure to Pay- If a payment arrangement failed and the real property in question were again placed on the list of eligible properties for tax sale, a prohibition would be placed on the taxpayer from re-entering into another payment arrangement as specified in the bill.

County Treasurer- The bill would the option for the county treasurer (instead of the county prosecutor) to initiate a civil penalty on persons that fail to pay purchase price on a property at a tax sale. The Treasurer would be allowed to recover treble damages, costs and reasonable attorney's fees on behalf of the county. County treasurers initiating collection of civil penalties could allow the resources of the county prosecutor to be devoted to other assignments..

(Revised) *PSAPs*- This provision would not allow a political subdivision permitted to operate a PSAP to impose a property tax rate or levy for the PSAP that exceeds the property tax rate of levy for 2011. Additionally, Marion County would be permitted to maintain more than one PSAP within the County if the other PSAP(s) are in an excluded city within the County.

Background: As of September 2010, the Lake County Treasurer's Office had a delinquent payment agreement with 620 properties that otherwise would be eligible for tax sale. Typical delinquent payment agreements range from 6 to 12 payment installments.

Explanation of Local Revenues: *Contract Property Sales:* Under current law, several property tax deductions are available to qualifying persons who either own property or are buying the property under contract. This bill would affect the mortgage, elderly, blind / disabled, disabled veteran, WWI veteran (and spouse), and homestead standard deductions. In order to qualify for these deductions, this bill specifies that the contract for real property must (1) be recorded, (2) require the buyer to pay property taxes, (3) specify the total contract price, and (4) require the seller to issue a deed or other evidence of title upon full payment. A contract for a manufactured or mobile home must (1) be recorded and (2) require the buyer to pay property taxes.

A fiscal impact would occur only if a current or future contract does not contain these terms. If a contract does not meet these requirements, then the deduction would be terminated. Without the deduction(s), the net assessed value of the property would increase which would add to the tax base and reduce tax rates. In addition, if the standard deduction is removed from a property, then taxes on the property would be capped at the 2% residential cap rate rather than the 1% homestead cap rate.

Beginning with mobile home taxes payable in CY 2012 and real property taxes payable in CY 2013 under the bill, a seller who makes a misrepresentation that causes a buyer to improperly claim a deduction would be liable for all back taxes including penalties and interest, plus an additional 10% penalty.

The actual fiscal impact depends on the number of contracts that would be deemed by county officials to be nonconforming.

Exemption For Property Leased to BMV: Under this provision, a taxpayer that leases real property to the BMV would receive a property tax exemption for taxes payable in 2011 through 2017 if:

1) The owner filed an exemption application between January 16, 2010 and January 24, 2010, inclusive, for taxes payable before 2011; and
2) A full or partial exemption was granted in any prior year.

Any increase in exemptions would shift a part of the property tax burden from the owners of the exempt property to all other property owners. The impact is not currently known. This analysis will be updated when additional information is received.

Fraternity / Sorority Property Tax Exemption: Under current law, a fraternity or sorority is entitled to a property tax exemption on up to one acre of land plus the real property improvements and personal property on the land if the property is connected to an educational institution and used exclusively to carry out its purpose. In addition, a fraternity or sorority headquarters may qualify for an exemption under the statute allowing an exemption for an educational or charitable purpose.

This bill would:

1) Remove the one acre limitation on the land exemption;
2) Allow the exemption for fraternities and sororities that are *related to* an educational institution;
3) Include in the definition of fraternities and sororities, (a) an international, national, state, or local office that oversees member chapters, (b) a related foundation, and (c) a related housing corporation;
4) Include certain limited liability companies in the definitions of fraternity and sorority;
5) Include fraternities and sororities in the list of entities that would file only once for an exemption rather than filing annually;
6) Allow an exemption for taxes payable in 2011 for property acquired for the future use of a fraternity or sorority; and
7) Remove the exclusive use test.

One Acre Limit. A review of county property tax data revealed that there were 366 parcels in the state that currently had a fraternity or sorority exemption in 2010. These parcels had a total gross assessment of $127.5 M. All but $3.9 M was exempt and the net taxes billed totaled $76,111. If it is assumed that the $3.9 M in nonexempt AV is related to excess land over one acre, then this bill would shift the $76,111 in taxes from the fraternities and sororities to other taxpayers.

Headquarters. The provision that would treat a fraternity or sorority headquarters the same as a chapter would ensure that the headquarters receives an exemption. Under current law, local taxing officials must make a determination as to whether a headquarters qualifies for an exemption under the educational or charitable purpose exemption statutes. In some cases, local taxing officials have denied the exemption. The fiscal impact of this provision depends on the final adjudication of any appeals of local denials. If the headquarters ultimately prevail, then this provision would have no impact. However, if the headquarters do not prevail, then this bill would shift the headquarters' property tax burden to other taxpayers. The number of properties that would be affected is not currently known.

Future Use Exemption. Property not yet used for fraternity or sorority purposes does not qualify for the exemption. Property tax rates have been set for 87 counties. If an additional exemption is allowed for taxes payable in 2011 then the affected taxing units would forego receipt of the taxes from these parcels. The number of properties and taxes that would be exempted are not currently known.

Exclusive Use. If property owned by a fraternity or sorority is not exclusively used to carry out its purpose, the property does not currently qualify for the exemption. Under this provision, the fraternity or sorority may qualify for a partial use exemption on the portion of the property used in accordance with the exempt purpose. This provision could result in an increase in the amount of property that could qualify for a fraternity / sorority exemption. The potential increase is unknown. Any increase in exemptions would shift a part of the property tax burden from the owners of the exempt property to all other property owners.

Certificate of Sale & Charges 10% per Annum- These provisions could make it easier for counties to get properties purchased at tax sale back on the tax rolls sooner. An owner attempting to redeem a property purchased by the highest bidder would have an easier payment to complete the redemption of their property. Under current law, in addition to payment of 110% or 115% of the minimum bid, the redeemer must also pay the amount at which the purchase price exceeds the minimum bid *plus* ten percent per annum on the purchase amount exceeding the minimum bid. The bill would only require the redeemer to pay either 110% or 115% (whichever is applicable) of the minimum bid and ten percent per annum on the amount that the purchase price exceeds the minimum bid. However, in tax sales where the purchase price is the minimum bid, these changes would not be of consequence to the redeemer's total payment.

Payment Arrangements- Properties under a repayment agreement would remain on county tax rolls instead of being removed from the rolls during the process leading up to a tax sale. When a property goes to tax sale, payment of property taxes has generally stopped or become delinquent. Agreements would allow tax revenue from those properties to continue to be collected and distributed to various local units of government relying on property taxes as a source of revenue. The provision would require arrangement payments to be completed by the last business day before July 1 of the year after the year the agreement was reached.

Extension of Redemption Period- This provision would allow county treasurers and property owners more time to reach agreements for the owner to pay the amounts owed to save their property from tax sale and the county to receive a steady stream of back taxes without having to designate the property for a tax sale. Under current law, the redemption period is 120 days (roughly four months), if the county executive has acquired the lien for which the certificate of sale has not sold. This provision would allow a county to extend the redemption period to one year after the date of establishing a repayment agreement with the taxpayer.

<u>Background:</u> The following table illustrates the statewide history of parcels offered at tax sale by SRI in prior years. Approximately 79 of the 92 counties (85%) have their tax sales conducted by SRI.

CY	**Number of Parcels Offered for Tax Sale**	**Number of Counties with Tax Sales During Year**
2000	11,447	67
2001	10,353	71
2002	9,633	73
2003	6,818	31
2004	5,980	46
2005	8,435	64
2006	16,356	71
2007	16,380	47
2008	6,694	39
2009	22,806	10
2010*	4,794	22
Total	119,696	
*Through September 2010		

Redevelopment Commissions - Overall Impact: The added review by an elect body could result in reduced redevelopment commission expenditures which could lead to a reduction in property taxes. The impact on redevelopment, if any, is unknown. The actual impact would depend on local action taken under this bill.

Redevelopment Commissions - Oversight: Under current law, a county or municipality may create a redevelopment commission or in Marion County, a department of metropolitan development. Under this bill, the legislative body of the taxing unit that created the commission or department would have oversight over:

1. The commission or department budget and tax levies;
2. The issuance of certain debt or obligations, including the execution of leases; and
3. The sale or disposal of property.

A commission would not be permitted to issue obligations, that would be paid with public funds without first obtaining approval from the enabling taxing unit's legislative body. The commission would not need approval of an obligation is for a real property purchase if either the purchase price does not exceed $5 M or the repayment period does not exceed 3 years.

Also, the legislative body would be required to specifically approve the payment of capitalized interest.

Redevelopment Commissions - Excess AV Determinations in TIFs: In a TIF area, captured tax payments are allocated to the redevelopment district and may be used to repay debt and for a variety of uses related to the operations of the redevelopment commission. Under this provision, the redevelopment commission would need to obtain the approval of the unit's legislative body if the excess AV is expected to generate more than 200% of the TIF proceeds necessary to carry out the redevelopment or economic plans.

Redevelopment Commissions - Fiscal Officer: For Indianapolis/Marion County, the city controller would be the fiscal officer of the redevelopment commission. The controller would be permitted to contract for financial services. The fiscal impact for this provision would depend on whether the controller contracts for financial services.

Property Tax Exemption - Cooperative House: Under this provision the owner of a men's cooperative house may receive a property tax exemption for taxes payable in 2007, 2008, 2009, and 2010 if the property would have qualified for the exemption if the application had been timely filed.

The total number of taxpayers impacted is unknown. However, one taxpayer in Tippecanoe County has been identified as qualifying for and exemption under this provision. The total net taxes billed for years 2007 through 2010 is $69,344. The taxing units that provide services to this property would forego the $69,344 in expected revenue.

Property Tax Exemption - Medical Society: Under this provision, a medical society would receive an exemption from property tax for taxes payable in 2011 and 2012 if the medical society received an exemption for taxes payable in 2009 and 2010 but failed to file timely for the 2011 exemption.

The total number of properties that could be affected is unknown. One property owner in Marion County has been identified as qualifying for the exemption under this provision. The net taxes billed on the otherwise exempt portion of the real property for 2011 is about $7,244.

Under this provision, the exemption would apply retroactively and the tax bills would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the $7,244 that is due. The exemption would continue in force for taxes payable in 2012.

Property Tax Exemption - Community Services: Under this provision, a property owner would receive an exemption from property tax for taxes payable in 2009, 2010, and 2011 if:

1) The property is in Indianapolis;
2) The owner is an organization that is dedicated to providing various community services;
3) An exemption application was not timely filed for taxes payable in 2009, 2010, and 2011; and
4) The property received an exemption for taxes payable in 2007.

Under this provision, the exemption would apply retroactively and the 2009, 2010, and 2011 tax bills would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the amount due. The property would also be removed from the tax sale list. The impact is not currently known. This analysis will be updated when additional information is received.

Property Tax Exemption - Center for the Arts: Under this provision, a property owner would receive an exemption from property tax for taxes payable in 2011 and 2012 if:

1) The property is used in conjunction with a religious, educational, charitable, civic, or cultural activities;
2) Part of the property is leased to a nonprofit center for the arts;
3) An exemption application for taxes payable in 2011 was filed on or by May 17, 2010; and
4) The property received an exemption in a prior year.

Under this provision, the exemption would apply retroactively and the 2011 tax bill would be cancelled. The local taxing units and school corporation located in the property's taxing district would forego receipt of their share of the amount due. The exemption would continue in force for taxes payable in 2012. The impact is not currently known. This analysis will be updated when additional information is received.

(Revised) *County Council Approval of Applications-* This provision would have an unknown impact on the number of future federal grants applied for in the non-consolidated city counties of Indiana. The impact of this provision on grant applications either financially obligating a county or requiring a county to produce matching funds would depend on county council action.

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: County executive, county treasurer, county prosecutor; County auditors; Local civil taxing units and school corporations; county councils.

Information Sources: Tim Rushenberg, President, SRI, 317-842-5818; Lake County Treasurer, 219-755-3760; OFMA Property Tax Database; Marion County Treasurer's website.

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